

**CIVIL DOCKET**  
**UNITED STATES DISTRICT COURT**

Jury demand date: 2-5-74 for Plaintiff

D. C. Form No. 106A Rev.

TITLE OF CASE				ATTORNEYS			
<p>LYNN CLYMA, Plaintiff,</p> <p>vs.</p> <p>MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, A Corporation, Defendant,</p> <p>vs.</p> <p>The CITY of TULSA, Oklahoma, Third-Party Defendant.</p>				<p>For plaintiff:</p> <p>SHEPHERD and MANER 100 Center Plaza, Suite A. Tulsa, Oklahoma 74127 583-7144 74119</p> <p>For defendant:</p> <p>G. Michael Lewis R. Dobie Langenkamp 1200 Atlas Life Bldg., Tulsa, Okla. 74103.</p> <p>Waldo F. Bales, City Attorney <del>Waldo F. Bales</del> Tom R. Gann <del>Dexxy Stark</del>, Asst. City Atty. City of Tulsa, City Hall Bldg. 200 Civic Center 581-5201</p>			
STATISTICAL RECORD	COSTS		DATE	NAME OR RECEIPT NO.	REC.	DISB.	
J.S. 5 mailed 10-1-73	Clerk		9-21-73	Maner	15.00		
			9-27-73	C/D No. 9		15 00	
J.S. 6 mailed 2-1-76	Marshal						
Basis of Action: Personal Injuries - Train-person accident.	Docket fee						
	Witness fees						
Action arose at:	Depositions						

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-21-73	Complaint filed and Summons issued. v	
9-27-73	Return on service of summons filed. Served MK&T RR by serving its registered service agent: The Corp. Co., Okla. City on 9-21-73. USM\$4.00)	
10-10-73	Application of Deft. for Extension of Time in which to Plead or Ans. until 11-3-73, filed. jj	
10-11-73	Order, filed, extending time to plead or ans. until 11-3-73, for the Deft., MKT Railroad. (AEB-J)v -copy mailed to Pltf.	
10-31-73	Appl. for extension of time, by deft, filed. a	
11-1-73	Order ext. time to 11-23-73 for deft. to answer, filed. (AEB-J)g	
11-9-73	Plaintiff's interrogatories, filed. ds	
11-21-73	Appl. of Deft. for ext. of time in which to plead or ans., fld. v -o-	
11-23-73	Order, filed, extending time to plead or answer to 12-22-73. (AEB-J)hm (copies mailed)	
12-10-73	Appl. for Extension of Time to Ans. Interrogatories, filed. jj O to J	
12-11-73	Order granting deft. until 1-10-74 to ans. interrogs., filed.(AEB-J)g	
12-28-73	Answer, filed. g	
1-9-74	MO: Parties are directed to hold PT conference prior to 2-11-74, & file PT order not later than 2-22-74. (AEB-J)v -notice mld.	
1-10-74	Answers to Pltf's Interrogatories, filed. v	
2-5-74	Demand for Jury Trial, filed.s	
2-8-74	Depo. of B.J. Harmon, on behalf of Pltf., before Peggy Lannom, LSR, taken on 1-28-74, filed. v	
2-8-74	MOTION to bring in Third-Party Deft. w/3rd Pty. Complaint attached, filed.jj O to J <i>Orig. Mtd to J.</i>	
2-12-74	Order, filed, granting Deft's Motion to Bring in Third-Party Defendant. (AEB-J)e <i>Copies Mld.</i>	
2-13-74	Third Party Complaint, filed and summons issued. v	
2-20-74	Summons ret. & filed: Served The City of Tulsa, in Tulsa on 2-15-74. (USM \$3.00)s	
3-7-74	Brief in Support of Motion to Dismiss, filed. e (by 3rd party deft.)	
3-7-74	Motion to Dismiss, filed. e (by 3rd party deft.) plaintiff	
3-8-74	Order that pltf. and deft. & 3rd-party/are granted 10 days from this date to respond to Motion to Dismiss of 3rd party deft. (AEB-J)e	
3-14-74	Motion of Pltf. to Dismiss, filed. v	
3-14-74	Brief in support, filed. v	
3-14-74	MO: It is ordered by the Court that Deft. is granted 10 days from this date to respond to Pltf's Mot. to Dismiss. (AEB-J)v	

Cont.

## D. C. 110A Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-15-74	APPLICATION for Ext. of Time to File Response Brief, filed.jj o to j	
3-21-74	ORDER, filed granting 10 days from March 18th, to file Response Brief. (AEB-J)e <i>Copier mld</i>	
3-26-74	Brief of Third-Party Plaintiff in Response to Motions to Dismiss of Plaintiff and Third-Party Defendant, filed e	
2-5-75	Order, filed, overruling motion of pltf. & 3rd Party deft. to dismiss 3rd party complaint. (AEB-J)k <i>cps mld</i>	
2-19-75	Order, filed, granting 3rd Party Deft. until 3-3-75 to answer complaints of Pltf. and deft. (AEB-J)g <i>Hand</i>	
3-3-75	<u>Ans.</u> of Third-Party Deft., filed. v	
3-13-75	MO: Parties are directed to hold a PT conf. on or before 4-24-75 & file a PT Order on or before 5-1-75. (AEB-J)k <i>cps by cert ml</i>	
3-21-75	Case set for jury trial on 6-2-75, at 10:00 AM (AEB-J) <i>nts mld.</i>	
3-28-75	Pltf's response to ans. of third-party deft., filed. hm	
4-29-75	Third-party deft. City of Tulsa's appl. for continuance from 6-2-75 trial docket, filed.k <i>2-2-75</i>	
4-30-75	Order, filed, continuing case from 6-2-75 trial docket to 6-17-75 jury trial docket. (AEB-J)k <i>cps mld</i>	
5-1-75	Proposed pre-trial order of pltf. & 3rd pty def., filed. rm	
5-1-75	Proposed pre-trial order of def., filed. rm	
5-23-75	Motion to Produce, filed by Pltf. Lynn Clyma. v	
5-23-75	Parties joint application for continuance of trial date, filed. v (o)	
5-27-75	Order granting continuance of trial date of this matter, filed(AEB-J) b <i>cps mld</i>	
5-28-75	MO: It is ordered by the Court that Pltf's motion to produce is hereby referred to Magistrate Bradford for hearing & recommendations. (AEB-J)k of Pltf. to Produce.	
6-11-75	Case called for hearing on Motion/. Pltf.'s atty. stated Defts. had agreed to the production of documents and pltf.'s mot. is now moot. (MLB-Mag)v	
6-20-75	Deposition of Don M. Cunningham on behalf of the Plaintiff taken on 5-6-75 at 2015 Crawford, Parsons, Kansas before Millie Ballard, LSR filed. mm	
6-20-75	Deposition of John Beard on behalf of the Plaintiff taken on 5-6-75 at 2015 Crawford, Parsons, Kansas before Millie Ballacr, LSR, filed. mm	

DATE	PROCEEDINGS	Date Order or Judgment Note
6-20-75	Deposition of Leslie LaRue on behalf of the Plaintiff taken on 5-6-75 at 2015 Crawford, Parsons, Kansas before Millie Ballard, LSR, filed. mm	
6-20-75	Deposition of W. F. Hill taken on behalf of the Plaintiff taken on 5-6-75 at 2015 Crawford, Parsons, Kansas before Millie Ballard, LSR, filed. mm	
7-25-75	Response of deft. M-K-T Ry. Co. to request for production of documents, filed. g	
12-22-75	MO: Case set for Jury trial on 1-12-76, at 10:00 A.M.(AEB-J)b nts mld	
12-31	Notice of Taking Dep. Dr. J. L. Richardson at 1:30p.m. the 15th of January 1976, filed.tc	
12-31	Deft's Request for Production of Documents, filed.tc	
12-31 1976	Deft's. Obj. to Jury Settling, filed.tc	
1-6	Trial brief of deft. M-K-T Ry. Co., filed. g	
1-7	Pltf. response to def. obj.' for trial by jury, filed. rm copy 1	
1-8	MO: It is ordered by the Court that the Court having the objection to demand for jury filed by the deft./ <sup>MKT</sup> the Pltf's response, thereto, and, being fully advised in the premises finds: That said objection should be overruled, in the discretion of the Court, there being issues triable by a jury; it is therefore, ordered that the objection filed by the deft./ <sup>MKT</sup> be overruled. (AEB-J)ph cps. mld.	
1-8	Trial brief of pltf. Lynn Clyma, filed, ph	
1-9	Reply to Pltf.'s response to objection for trial by jury, fld. by MKT. v	
1-9	Exhibit Affidavit, filed.tc	
1-9	Trial Brief of Third Party Defendant, City of Tulsa, filed.tc	
1-12	Return on U.S. Marshals Service, <u>Subpoena</u> , filed. Served J. L. Richardson, M.D. by serving Delories Breithaup in Tulsa on 1-5-76 w/fees of \$2.72. v	
1-12	Case called for J/T. Parties present & announce ready. Jury Selected & sworn. Trial to begin 1-16-76 at 9:30 A.M.(AEB-J)b	
1-12	Pltf's Requested Instructions, filed.jj	
1-15	Third party Deft, the City of Tulsa's requested instructions, filed.ph	
1-15	Instructions requested by Deft. MKT Railroad, filed. ph	
1-15	5 Subpoenas Ret. & Filed: Served Harvey, Edwards, Crawford, Hobson, and Durkee. ph	
1-16-76	Exhibit affidavit of Pltf., tiled. b	
1-16-76	Deposition of Lynn Clyma, filed. hm	
1-16-	Exhibit affidavit of Deft. MKT, filed. b	
1-16	Return on Civil Subpoena to Produce, fld. Served B.J. Harmon on 1-16-76. v	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-19-76	Brief in support of motion for directed verdict by deft. MKT RR Co., filed. <i>ph cpy to Mr. Lys</i>	
1-19-76	Deposition of Dr. J. L. Richardson on behalf of deft. & 3rd Pty Pltf., filed. (\$49.50)g	
1-20-76	Deposition of Dr. Richard Levi Penecost, filed. (M. Ballard-LSR)ph	
1-22-76	Case tried to Jury on 1-16, 1-19, 1-20, 1-21 & 1-22, 1976. Parties present & announce ready. Jury selected & sworn on 1-12-76. Deft. to file brief in support of motion for Judgment of Acquittal. Parties make opening statments. Pltf's objection to Deft's opening statement overruled. Pltf. presents case in chief; witnesses sworn & testify. Deft's motion for dismissal of testimony of McKinsy, overruled. Parties stipulate to portion of Cunningham deposition, which is read into record. Deft's motion to strike Dr. Pentecost's test., overruled. Parties stipulate to Pltf's loss of salary. Pltf rests. Ct. overrules Deft's motion for directed verdict, & Pltf's motion for directed verdict overruled. Deft. presents case in chief, witnesses sworn & testify. Parties stipulate to portion of Sellers testimony. Deft. rests. 3rd party Deft. presents no case. Deft's renewed motion for directed verdict, overruled. 3rd party deft's motion that they be dismissed, overruled. Parties rest. Closing arguments made & Ct. instructs jury. Bailiff sworn & Jury retires to deliberate at 3:10 P.M. on 1-21. 4:40 P.M., note from Jury. Jury returns to Ct. & questions answered. Ct. recessed at 4:55 P.M., to return at 9:15 A.M. on 1-22 to continue deliberations. (1-22-76, 9:15 A.M.) Jury continues deliberation. 10:05 A.M., Jury returns w/verdict, in favor of Pltf. & against Deft. MKT, find in favor of 3rd party deft, City of Tulsa, & against Deft. & 3rd party Pltf., MKT & assess damages in the sum of \$146,129.00. Judgment spread of record by Clerk.(AEB-J)b	
1-22-76	Verdict, filed, finding in favor of Pltf. & against Deft. MKT, find in favor of 3rd party Deft., City of Tulsa & against Deft. & 3rd party Pltf. MKT & assess damages in sum of \$146,129.00.(AEB-J)b	
1-22	Note from jury, filed. b	
1-22	Pltf's exhibits 1-9, 11-15, 17-21, 24-30, 33-70 & 72, filed.b in exhibit room	
1-22	Deft's exhibits 1-17, 20-23, filed. b In exhibit room	
1-23	Judgment, filed & entered, finding in favor of Pltf., & against Deft., M-K-T RR. Co., finding in favor of 3rd party Deft., City of Tulsa, & against Deft. & 3rd party Pltf., M-K-T, & assess his damages in sum of \$146,129.00.(JES-Clk) b cps mld	
1-29	Bill of costs of Pltf., filed. Costs tax hearing set for 2-9-76 at 10:00 a.m. ph	
1-30	Mot. of Deft. MKT RR for Judg. notwithstanding the verdict or in the alternative for a new trial, filed. v -cpy to MC	
1-30	Bill of costs, filed by third party deft. City of Tulsa. k Hrg. set 2-5-76 at 10:00am	
2-2	MO: Pltf. is granted 10 days from this date to respond to the Mot. for Judg. notwithstanding the verdict or in the alt. for a new trial fld. by Deft. MKT RR Co. on 1-30-76. (AEB-J)v <i>see mld</i>	

DATE	PROCEEDINGS	Date Order or Judgment Not
1976 2-4	Pltf's Resp. to Deft. Missouri-Kansas-Texas Railroad Mtn. for Judgment notwithstanding the verdict or in the alternative for a New Trial, filed.jj	
2-5	Costs taxation hearing passed to 2-12-76 at 10:00 a.m. re third party deft. City of Tulsa. (JCS-Clk)k	
2-9	Costs taxation hearing passed to 2-12-76 at 10:00 a.m. re pltf. (JCS-Clk)k	
2-12	Costs taxation hearing stricken, to be re-set. (JCS-Clk)k	
2-19	Order overruling the mot. for judgment notwithstanding the verdict or in the alternative for a new trial filed by deft. MKT Railroad Co., filed & entered. (AEB-J)k cps mld	
2-19	Obj. of def. MKT to bill of costs of pltf., filed. rm	
2-20	Appl. of def. MKT for reconsideration and for leave to present oral argument, filed. rm	
2-20	Brief in support of appl. reconsideration and for oral argument, filed. rm <i>0 10:00 a.m. day ltr. per. RW</i>	
2-23	Mot. of Pltf. to strike Deft.'s Objection to Bill of Costs w/brief, filed. v	
2-23	Mot. to Strike Deft. Railroad's Appl. for Reconsideration & Oral Argument w/brief, filed. v	
2-23	MO: Ordered that Deft. is granted 10 days from this date to respond to Pltf.'s mots. to strike Deft.'s objection to Bill of Costs and mot. to Strike Deft. Railroad's appl. for reconsideration & oral argument. (AEB-J)v -ltrs mld.	
2-24	MO: Case set for costs taxation hearing on 3-10-76 at 10:00 a.m. (JCS-Clk)k ntc mld by cert ml	
3-4	Combined Resp. to Pltfs' Mtn. to Strike Deft's. Obj. to Bill of Costs & Pltf's. Mtn. to Strike Deft. Railroad's. Appl. for Reconsideration & Oral Argument, filed.jj	
3-11	Costs taxed by Clerk in amt. of \$240.84, in favor of def. City of Tulsa and against def., MKT.(JCS-Clk)rm	
3-11	Costs taxed by Clerk in amt. of \$2,105.71, in favor of pltf. and against def. MKT.(JCS-Clk)rm	
3-12	Order, filed, granting motion to reconsider and denying deft's motion for new trial on condition of remittitur of damages.(AEB-J)ph cps mld by attys.	
3-12	Pltf's consent to reduce verdict, filed. ph cps mld by attys.	
3-12	Modification of judgment on general verdict after remittitur, filed and entered that Pltf. recover of deft. the sum of \$85,000 plus costs plus int. of 10% per annum.(AEB-J)ph cps mld by attys.	
3-12	Release and satisfaction of judgment, filed. ph cps mld by attys.	
4-16	Costs of \$240.84 rec'd & returned to MKT RR this date for payment directly to the City of Tulsa. v	